

REMARKS

In response to the Requirement for Restriction of June 10, 2009, Applicants elect Group I, claims 24-33 and 37-40 under 35 USC §§ 121 and 372. This election is made with traverse. The basis for the traverse is that the objection to the lack of a single general inventive concept is groundless and misplaced.

Applicants first take note of the fact that the Examiner incorrectly refers to claims 1-40, whereas the claims currently under examination are 24-40.

It is respectfully submitted that the Examiner's reasoning is premised upon an incorrect assumption, namely, that claims 24-33 are drawn to a process for making plasticized PLGA. Indeed, these claims are "product-by-process claims", within the meaning of MPEP § 2113, i.e., claims wherein a product is claimed, being defined by the process.

As far as claims 34-36 are concerned, the subcutaneous implants are products comprising the plasticized PLGA according to claim 24 and active principles. Therefore, the implants include all the features of the foregoing claim 24.

Furthermore, claims 37-40 define a process for making the above subcutaneous implants, having both the plasticized PLGA according to claim 24 and active principles as starting materials.

Therefore, process claims 37-40 also include all the features of the foregoing claim 24.

As a result, the **plasticized PLGA** itself is the **special technical feature** corresponding to the **single general inventive concept** of the current application.

This also means that PCT Rule 13.1, as mentioned by the Examiner, concerning the requirement of "unity of invention" has been met.

In particular, PCT Rule 13.2 recites:

“... the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression “special technical features” shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.”

The Examiner states that PCT Rule 13.2 is not fulfilled because Group II claims bioactive agents which are not present in plasticized PLGA of Group I.

As clarified above, this derives from a misinterpretation of the claimed subject matter. Actually, the plasticized PLGA in claims 24-33 is a product, and subcutaneous implants comprise said product **and** active principles.

In view of the above, Applicants are persuaded that the technical features of the plasticized PLGA according to claim 24 are **special features** that correspond to a **single general inventive concept**. In this regard, there remains no basis for a lack of unity objection.

Since claims 34-36 are all directed to non-elected Group II and include all the limitations of the allowable product claims 24-33 and 37-40, said claims 34-36 shall be considered for rejoinder.

CONCLUSION

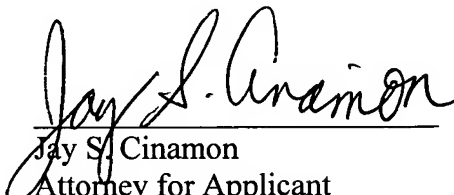
In view of the above, Applicants believe that the currently pending claims meet the requirements of unity of invention on the grounds that the arguments provided herein fully overcome the objection raised in the outstanding Office Action of June 10, 2009.

The issuance of a Notice of Allowance is respectfully solicited.

Please charge any fees which may be due and which have not been submitted herewith to our Deposit Account No. 01-0035.

Respectfully submitted,

ABELMAN, FRAYNE & SCHWAB
Attorneys for Applicant

By 
Jay S. Cinamon
Attorney for Applicant
Reg. No. 24,156

666 Third Avenue
New York, NY 10017-5621
Tel.: (212) 949-9022
Fax: (212) 949-9190